

Application No.: 10/688,370

Docket No.: 03-5001

REMARKS

Applicants have carefully reviewed the Office Action dated July 26, 2005 and thank the Examiner for the detailed review of the pending claims. While the Office Action Summary states that claims 1-28 are allowed, the Office Action clearly states that the Examiner has rejected claims 1-28. Independent claims 1, 11, 18, and 26 have been amended. Thus, claims 1-28 are pending.

Claim Rejections - 35 U.S.C. § 103

Claims 1-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. RE38,127 E to O'Sullivan (hereinafter "O'Sullivan"), in view of U.S. Patent Application No. 2004/0072544 to Alexis (hereinafter "Alexis"). Applicants respectfully traverse the rejection.<sup>1</sup>

Generally, to establish a prima facie case of obviousness under § 103(a), three elements must be satisfied. First, there must be some affirmative suggestion or motivation in the prior art to combine or modify prior art references. Second, there must be a reasonable expectation of success found in the prior art. Third, the prior art references must teach or suggest all of the claim limitations. MPEP § 2143.

O'Sullivan includes a laptop device for a personal computer, a cellular transceiver, a speakerphone, and a hybrid communications control unit. The device has connectors for attaching a headset, cellular control unit, land telephone line, and additional speakers and microphones.

Alexis includes a conventional landline communication device and a separate cellular telephone. If the communication device is on a wireless call, that call may be placed on hold to answer an incoming call on the landline. Likewise, if the communication device is on a landline

<sup>1</sup> As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such in the future.

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call, that call may be placed on hold to answer an incoming call on the wireless telephone.

### I. Lack of Teaching

For each of claims 1-28, the Examiner has not pointed to any affirmative suggestion or motivation in the prior art to combine or modify prior art references. O'Sullivan teaches a device for a personal computer while Alexis teaches a conventional land line device with a call forwarding capability to a cellular phone, the base station being able to charge both devices. However, there is no suggestion or motivation in the references to combine certain elements into a "hybrid device" or "a handset" as required by claims 1 and 11 respectively. Further, neither reference discusses the functionality of determining the availability of a "user device" as is required by claims 18 and 26.

As noted in MPEP § 2143, the suggestion or motivation in the prior art to combine the references is a necessary element to a prima facie case of obviousness under § 103(a). Further, the Examiner has not shown that there would have been a reasonable expectation of success if the combination was made. However, even if as prima facie case of obviousness were found the references do not teach the limitations of the claims, as is discussed in detail below. Thus, the Examiner is asked to withdraw the rejections.

### II. Independent Claims

#### A. Claim 1

Independent claim 1 recites a system that includes:

- a hybrid device for enabling telephony communications;
- a landline connection path between said landline communications network and said hybrid device;
- a wireless connection path between said wireless communications network and said hybrid device;
- an availability unit for determining if said landline connection path is available to said hybrid device;

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a switch to select one of said landline connection path and said wireless connection path for operation of said hybrid device, wherein said wireless connection path is selected at least when said landline connection path is unavailable; and

a transfer device connected to the landline communications network to transfer one of said telephony communications enabled by said hybrid device from said landline communications network to said wireless communications network when said switch selects said wireless connection path.

Support in the specification for the amendments to claim 1 can be found (at least) in paragraph [0032] on pages 10 and 11. (Additional support is found in paragraphs [0012], [0014], and [0026]). Claim limitations of “an availability unit for determining if said landline connection path is available to said hybrid device” and “wherein said wireless connection path is selected at least when said landline connection path is unavailable” have been added. Neither O’Sullivan nor Alexis include the claimed subject matter.

More specifically, O’Sullivan does not teach or suggest “determining if said landline connection path is available to said hybrid device.” On the contrary, O’Sullivan teaches away from the claimed invention because a hybrid device, as claimed, is not present in the reference. Rather, O’Sullivan teaches a personal computer adapter. (See O’Sullivan; Abstract). Therefore, no attempt can be made to determine if the landline is available to the hybrid device. Additionally, while Alexis provides detection for on-hook and off-hook states, this functionality does not determine if the landline is available. (See Alexis; Page 3, Paragraph [0035]).

Further, neither reference teaches or suggests that a “wireless connection path is selected at least when said landline connection path is unavailable.” Although Alexis may include switches (see Alexis; FIG. 2B), no logic is described in the specification that would teach or suggest that a wireless connection path is selected when a landline connection path is unavailable. Additionally, while O’Sullivan includes switches 72 and 74 (see O’Sullivan; FIG. 4), the function of microprocessor 70 for controlling switches 72 and 74 does not include the claimed limitations. (See O’Sullivan; Column 8, Lines 61-67; Column 9, Lines 1-22).

Thus, because the references do not include each and every claim limitation, claim 1 is in condition for allowance. Therefore, the rejection should be withdrawn. Additionally, claims 2-

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10 depend from claim 1. Thus, for at least the same reasons as claim 1,<sup>2</sup> claims 2-10 are in condition for allowance.

#### B. Claim 11

Independent claim 11 recited a device that includes:

a handset;

a landline microprocessor unit selectively connected between said handset and a landline network;

a wireless microprocessor unit selectively connected between said handset and a wireless network; and

a switching module to selectively activate one of said landline microprocessor unit and said wireless microprocessor unit, wherein said switching module activates said wireless processor unit at least when said landline microprocessor is unable to connect to said handset.

Support in the specification for the amendments to claim 11 can be found (at least) in paragraph [0032] on pages 10 and 11. (Additional support is found in Paragraphs [0012], [0014], and [0026]). Claim 11 includes the limitations "wherein said switching module activates said wireless processor unit at least when said landline microprocessor is unable to connect to said handset." However, neither O'Sullivan nor Alexis include the limitation related to the switching module. O'Sullivan does not discuss the availability of a handset. Rather, O'Sullivan does not include a handset, but rather, teaches a personal computer adapter. (See O'Sullivan; Abstract, FIG. 4). Therefore, no attempt can be made to determine the unavailability of a handset. Additionally, while Alexis provides detection for on-hook and off-hook states, this functionality does not determine if the landline is available. (See Alexis; Page 3, Paragraph [0035]). Further, O'Sullivan and Alexis do not teach or suggest switching to a wireless connection when a handset cannot be reached by the landline.

<sup>2</sup> As Applicants' remarks with respect to the base independent claims are sufficient to overcome the Examiner's rejections of all claims dependent therefrom, Applicants' silence as to certain Examiner's assertions with respect to dependent claims is not a concession by Applicants to the Examiner's assertions as to these claims, and Applicants reserve the right to analyze and dispute such assertions in the future.

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Thus, because the references do not include at least the claim limitations noted above, claim 11 is in condition for allowance. Therefore, the rejection should be withdrawn. Additionally, claims 12-17 depend from claim 11. Thus, for at least the same reasons as claim 11, claims 12-17 are in condition for allowance.

### C. Claim 18

Independent claim 18 recites a method including:

receiving an incoming call from a landline network;

determining if a connection is available between said landline network and a user device, wherein said user device is capable of connecting with said landline network and said wireless network;

routing said incoming call from said landline network to a wireless network when said connection between said landline network and said user device is not available and when said incoming call is not answered; and

transmitting said incoming call to said user device from said wireless network.

Support in the specification for amendments to claim 18 can be found (at least) in paragraph [0025] on page 8. Claim 18 includes the limitations "wherein said user device is capable of connecting with said landline network and said wireless network." However, the two references relied on by the Examiner do not include these limitations. Alexis includes a telephone handset 202 and a separate cellular phone 220. (See Alexis; FIG. 4). Thus, telephone handset 202 and a cellular phone 220 are not the same "user device," but rather are separate devices that do not each have the capability to connect with "said landline network and said wireless network." Similarly, O'Sullivan includes a control unit 14, but not a "user device" as claimed that may connect with "said landline network and said wireless network." (See O'Sullivan; FIG. 4).

Additionally, neither O'Sullivan nor Alexis teach or suggest the limitations of "determining if a connection is available between said landline network and a user device" and

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"routing said incoming call from said landline network to a wireless network when said connection between said landline network and said user device is not available."

Therefore, for at least these reasons, claim 18 is in condition for allowance. Claims 19-25 depend from claim 18. Thus, for at least the same reasons as claim 18, claims 19-25 are in condition for allowance.

#### D. Independent Claim 26

Independent claim 26 recites a method that includes:

receiving an incoming call from said landline network;  
determining which one of said multiple user devices said incoming call is directed to;

determining if a connection is available between said landline network and said one of said multiple user devices said incoming call is directed to;

routing said incoming call to said one of said multiple user devices from said landline network when said connection is available, wherein said user device is capable of connecting with said landline network and said wireless network; and

routing said incoming call from said landline network to said one of said multiple user devices via a wireless network when said connection is not available.

Claim 26 includes the limitations of "determining which one of said multiple user devices said incoming call is directed to" and "determining if a connection is available between said landline network and said one of said multiple user devices said incoming call is directed to." However, the two references relied on by the Examiner do not include these limitations. For example, telephone handset 202 in Alexis is part of the land-line configuration and is generally known in the art as a "cordless phone." (See Alexis; FIG. 4). Thus, the telephone handset 202 in Alexis has no other functionality than connecting to a land line. Further, cellular phone 220 is not considered part of the land-line because cellular phone 220 connects to a wireless network, rather than to a land-line. Thus, Alexis cannot disclose the limitation of "determining if a connection is available between said landline network and said one of said multiple user devices said incoming call is directed to" because there is but only one device (cellular phone 220) other than the land line.

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Additionally, no mention of determining the availability of a user device is mentioned. Further, as explained above with respect to claim 18, neither telephone handset 202 nor cellular phone 220 are considered a "user device." Therefore, Alexis does not disclose "multiple user devices." Similarly, O'Sullivan does not include "multiple user devices" as claimed. O'Sullivan may include speakerphone 52 and optional microphones 103. However, these add-ons are not considered "multiple user devices" at least because claim 26 requires that "said user device is capable of connecting with said landline network and said wireless network." (See O'Sullivan; FIG. 4). Additionally, neither O'Sullivan nor Alexis disclose the limitation of "determining which one of said multiple user devices said incoming call is directed to."

Therefore, for at least these reasons, claim 26 is in condition for allowance. Claims 27 and 28 depend from claim 26. Thus, for at least the same reasons as claim 16, claims 27 and 28 are in condition for allowance.

### III. Dependent Claims

While the various dependent claims are patentable since they depend from independent claims that are patentable for the reasons discussed above, the dependent claims are also independently patentable.

Claim 2, for example, recites the limitation of "a handset." However, Alexis includes a telephone handset 202 and a separate cellular phone 220. (See Alexis; FIG. 4). Thus, telephone handset 202 and a cellular phone 220 are not a singular "handset," but rather are separate devices. Moreover, claim 2 requires a "landline connection path" and a "wireless connection path" to the handset. Whereas in Alexis, the connection paths are to separate devices. Thus, Alexis does not disclose the configuration of the handset of claim 2 where the connection paths are to a single handset. Further, O'Sullivan includes a control unit 14, but not a "handset" as claimed that may connect with "said landline network and said wireless network." (See O'Sullivan; FIG. 4). Additionally, O'Sullivan teaches away from the handset as claimed because O'Sullivan is directed to a laptop device for a personal computer rather than a "handset." (See O'Sullivan; Abstract). Therefore, claim 2 is independently patentable and is in condition for allowance because neither Alexis nor O'Sullivan discloses the handset of claim 2.

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Dependent claims 4 and 9 include "an administrative module managing customer account information for said users." However, neither O'Sullivan nor Alexis disclose these limitations. The reference in Alexis, cited by the Examiner, merely describes flowcharts for interface circuitry. (See Alexis; Page 2, Paragraph [0017]). Additionally, the Examiner has not particular pointed to an element in O'Sullivan that meets the claim limitations. However, the flowchart of O'Sullivan merely includes a method for routing a call. (See O'Sullivan; FIG. 7). Therefore, the references do not teach or suggest "an administrative module managing customer account information for said users." Thus, claims 4 and 9 are independently patentable and in condition for allowance because neither O'Sullivan nor Alexis disclose the claimed limitations.

Claims 6 and 16 include limitations of "at least one of a global positioning system tracking module and a web browser." However, neither O'Sullivan nor Alexis disclose these limitations. The reference in Alexis cited by the Examiner merely describes methods of communication for voice service, in some cases, using satellites. (See Alexis; Page 2, Paragraph [0029]). Alexis does not illustrate "a global positioning system tracking module" or a "web browser." Additionally, the Examiner has not pointed to an element in O'Sullivan that meets the indicated limitations in the context of the rest of the claim. Thus, claims 6 and 16 are independently patentable and are in condition for allowance because neither O'Sullivan nor Alexis disclose the limitations.

As one final example, claims 7 and 17 require that the handset include "a pager." However, neither O'Sullivan nor Alexis teach or suggest a pager or even a paging system. The Examiner points to a cellular phone 220 in Alexis and claims that the cellular phone may be used as a pager. (See Alexis; FIG. 4, Page 5, Paragraph [0046]). However, those skilled in the art will recognize that pagers and pager networks operate differently than cellular telephone networks. Therefore the cellular phone 220 of Alexis is not "a pager." Thus, claims 7 and 17 are independently patentable and are in condition for allowance.

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**CONCLUSION**

In view of the foregoing, Applicant respectfully submits that the pending claims are in condition for allowance. Reconsideration and allowance are respectfully requested. If there are any outstanding issues which need to be resolved to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned representative by phone at the number indicated below to discuss such issues. To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account number 07-2347. With respect to this application, please charge any other necessary fees and credit any overpayment to that account.

Respectfully submitted,

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